

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JAMES H. BUIE,

Petitioner,

v.

Case Number 07-10921-BC
Honorable Thomas L. Ludington

MICHIGAN DEPARTMENT OF
CORRECTIONS and THOMAS BIRKETT,

Respondents.

ORDER DENYING PETITIONER'S MOTION FOR RECONSIDERATION

Petitioner James H. Buie has moved for reconsideration of the Court's Order and Judgment dismissing his Habeas Corpus Petition with prejudice for failure to comply with the one-year statute of limitations. Petitioner has asked the Court to dismiss his case without prejudice, as opposed to with prejudice, so that he can obtain a certificate of appealability and seek further review.

Petitioner's motion, filed on May 20, 2008, is untimely because it was filed more than ten days after the Court's Order and Judgment dated December 11, 2007. Local Rule 7.1(g)(1) (E.D. Mich. Dec. 1, 2005). Furthermore, Petitioner has not shown that the Court was misled by a "palpable defect" when it dismissed his habeas petition as time-barred and declined to issue a certificate of appealability. Local Rule 7.1(g)(3) (E.D. Mich. Dec. 1, 2005).

Accordingly, it is **ORDERED** that Petitioner's Motion for Reconsideration [dkt #11] is **DENIED**.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: July 8, 2008

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on July 8, 2008.

s/Tracy A. Jacobs
TRACY A. JACOBS